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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/615,814   | 07/09/2003  | Jeffrey E. Richlen   | 043210-1441-01      | 1444             |
| 23409  | 7590        | 07/20/2004           | EXAMINER            |                  |
| MICHAEL BEST & FRIEDRICH, LLP<br>100 E WISCONSIN AVENUE<br>MILWAUKEE, WI 53202 |             |                      | FASTOVSKY, LEONID M |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3742                |                  |
| DATE MAILED: 07/20/2004  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/615,814

**Applicant(s)**

RICHLEN, JEFFREY E.

**Examiner**

Leonid M Fastovsky

**Art Unit**

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Upon further consideration the restriction of claims 1-16 has been withdrawn. The cancellation of claims 17-20 by the Applicant has been acknowledged.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7, 9-14 and 16 are rejected under 35 U.S.C. 103 (a) over Polly (3,667,315) in view of Yang (4,181,190).

Polly teaches a heated handgrip assembly adapted to be secured to a vehicle handlebar 10, the heated handgrip 13 comprising: a grip having a first end adapted to receive the handlebar 10, a second end opposite the first end, a grip sleeve 13 extending between the first and the second ends, a heating element 22 operable to provide a heat output, the grip sleeve 13 defining the first outer diameter, and a dial-rheostat 34 coupled to the second end to control the heat output of the heating element 22. However, Polly does not teach a dial having an outer diameter smaller than the first outer diameter and ribs defining graduation marks and equally angularly spaced. Yang teaches a motorcycle controls having a handgrip 14 with a dial 148 with ribs 149

Art Unit: 3742

defining graduation marks that are equally angularly spaced and an outer diameter of the dial diameter is smaller than of the first outer diameter of the handgrip 14. It would have been obvious to one having ordinary skill in the art to modify Polly's invention to include a dial having ribs that are equally angularly spaced and a diameter smaller than that of the hand grip in order to have controls in the handgrip as taught by Yang (col. 7, lines 6-20) and also because the prior art is reasonably pertinent to the particular problem of handgrip controls in accordance with MPEP 2141.01(a).

Regarding claims 2 and 3, it would have been obvious for an ordinary person skilled in the art to adjust the outer diameters of the handgrip and the dial at appropriate range as a conventional in the art.

2. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polly in view of Sato and further in view of MacKay (5,931,751).

Polly in view of Yang teaches substantially the claimed invention, but does not teach that the end wall portion of the dial is concave. MacKay teaches a handle 140 having an end wall 144 being caved (Fig. 6). It would have been obvious to one having ordinary skill in the art to modify the invention of Polly in view of Yang to include a handle having an end wall being caved as taught by MacKay because the prior art is reasonably pertinent to the particular problem of gripping the handle in accordance with MPEP 2141.01(a).

**Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 2003/0226838 (grip heater), 6686572 (heating device for a handle), 3667315 (handle bar heater), 4990753 (heated handgrip).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 703-306-5482. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonid M Fastovsky  
Examiner  
Art Unit 3742

Imf